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D.B. CIVIL SPECIAL APPEAL NO.178/2007.
[SATYA NARAIN VS. THE APPELLATE RENT TRIBUNAL & ORS.]
DATED : 01.03.2007

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. CHATRA RAM JAT, J.

Mr.C.S.Kotwani for the appellant.

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Heard learned counsel for the appellant.

This appeal has no merit. The petitioner appellant has successfully suffered the decree of eviction on an application filed by respondent No.2. The suit premises is situated on ground floor. The applicant is an old aged lady and she has pleaded the suit premises situated at ground floor are required for her personal necessity as looking to her old age, and that she is suffering from diabetes, blood pressure and pains in knees, it is difficult for her to use the present residence which is at first floor and toilets which are situated at ground floor. She has, therefore, necessity to shift her residence from first floor to ground floor to cope up with her advanced age and ailment.

The Rent Tribunal as well as the Appellate Tribunal have found in favour of the applicant and have found as a fact that the premises in question are needed reasonably and bonafide for landlady's own use.

Consequently, the decree for eviction was passed.

The finding about existence of reasonable bonafide necessity is a finding of fact and is not liable to be interfered with even if the second appeal were provided. The finding of fact even otherwise has not been shown to be vitiated merely because as per the suggestion of the learned counsel for the appellant another room can be made at the ground floor.

We are unable to sustain the plea of the appellant that personal necessity could be subjected to alternative suggestions made by the appellant for the purpose, by incurring huge additional cost of construction by the landlady.

Moreover, it being an extra ordinary jurisdiction seeking a writ of certiorari; there being no error of jurisdiction or procedure and the finding being passed on appreciation of evidence, the extra ordinary jurisdiction is otherwise not liable to be invoked.

Accordingly, the appeal is dismissed in limine.

[CHATRA RAM JAT]J. **[RAJESH BALIA], J.**

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